Clare & Gilbert Valleys, Northern Areas Council, Regional Council of Goyder, Wakefield Regional Council

Mid North Regional Assessment Panel

Meeting Procedures

Adopted by the MNRAP on 24 September 2020

These Meeting Procedures are to be read in conjunction with the meeting procedures contained within the *Planning, Development and Infrastructure (General) Regulations 2017* (**Regulations**).

These Meeting Procedures are to be read in conjunction with:

- the Gazette notice pursuant to which the RAP was constituted; and
- the RAP's Policy for Assessment Panel Review of Decision of Assessment Manager (**Assessment Manager Review Policy)**.

1. MNRAP MEETINGS

Ordinary Meetings

1.1 Subject to clause 1.2, ordinary meetings of the Mid North Regional Assessment Panel (**MNRAP**) will be held at such times and places as determined by the MNRAP.

1.2 The time and place of the first meeting of the MNRAP following its establishment will be determined by the Assessment Manager. The Assessment Manager must give notice of the first MNRAP meeting to the MNRAP and the public in accordance with clauses 1.4 and 1.6.

1.3 Notice of an ordinary meeting will be given to all MNRAP Members by the Assessment Manager not less than three clear working days prior to the holding of the meeting in accordance with clause 1.4

1.4 Notice of a meeting of the MNRAP must:

1.4.1 be in writing;

1.4.2 set out the date, time and place of the meeting;

1.4.3 be signed by the Assessment Manager;

1.4.4 contain or be accompanied by the agenda and any documents and/or reports that are to be considered at the meeting (in so far as practicable); and

1.4.5 be given to a MNRAP Member personally, by post to a place authorised in writing by the Member or by other means authorised by the Member as being an available means of giving notice.

1.5 A notice that is not given in accordance with clause 1.4 is taken to have been validly given if the Assessment Manger considers it impracticable to give the notice in accordance with that clause and takes action the Assessment Manager considers reasonably practicable in the circumstances to bring the notice to the attention of the Member.

1.6 A copy of the agenda for all meetings of the MNRAP will be available for viewing by the public on the Council's website and at the Council's offices as soon as practicable after the time that notice of the meeting has been given to MNRAP Members.

1.7 The Assessment Manger may, with leave or at the request of the Presiding Member, include in the agenda an item to be considered at the meeting to which the agenda relates after notice of the meeting has been given to MNRAP Members. In such instance, the Assessment Manager shall provide an updated agenda and any documents and/or reports relating to that item to be considered at the meeting to Members as soon as practicable. The Assessment Manager will also make an updated agenda available to the public three days prior to the meeting.

1.8 The Presiding Member may adjourn a MNRAP Meeting to a future date and time, unless the MNRAP resolves to continue the meeting.

1.9 A meeting will break for 15 minutes once every 2 hours, or more or less often as determined by the Presiding Member.

1.10 A quorum at a meeting of the Panel consists of a number ascertained by dividing the total number of members by half, ignoring any fraction resulting from the division, and adding one (and no business may be transacted at a meeting of the Panel unless a quorum is present).

Special Meetings

1.11 The Presiding Member, or any three MNRAP Members, may by delivering a written request to the Assessment Manager require a special meeting of the MNRAP to be held. The written request must be accompanied by the agenda for the special meeting.

1.12 On receipt of a request pursuant to clause 1.12, the Assessment Manager must determine the date, time and place of the special meeting

and give notice to all MNRAP members at least 4 hours before the commencement of the special meeting.

2. ADDITIONAL MEMBERS

2.1 The MNRAP may appoint up to two Additional Members in accordance with Section 85 of the *Planning, Development and Infrastructure Act 2016* (**Act**).

2.2 Where the MNRAP has appointed Additional Member(s), the Presiding Member, in consultation with the Assessment Manager, may invite one or both Additional Members to attend any meeting (or part thereof) where he or she considers the Additional Member(s) will, by virtue of their qualifications, expertise or experience, assist the MNRAP in dealing with a matter that it must assess under the Act (or, during the transition to the Act, the *Development Act 1993*).

2.3 A request that an Additional Member attend a meeting must be made in writing and be accompanied by the notice for the meeting in accordance with clause 1.4, highlighting the item(s) the Additional Member is required to consider.

2.4 Unless the context otherwise requires, a reference to a Member in these Meeting Procedures includes an Additional Member, save that an Additional Member is not able to vote on any matter arising for determination by the MNRAP.

3. COMMENCEMENT OF MEETINGS

3.1 Subject to a quorum being present, a meeting of the MNRAP will commence as soon as possible after the time specified in the notice of a meeting.

3.2 If the number of apologies received by the Assessment Manager or Presiding Member indicates that a quorum will not be present at a meeting, the Presiding Member may adjourn the meeting to a specified day and time.

3.3 If at the expiration of thirty minutes from the commencement time specified in the notice of the meeting if a quorum is not present, the Presiding Member may adjourn the meeting to a specified date and time.

3.4 In the event that the Presiding Member is absent from a meeting, the Assessment Manager, or such other person as nominated by the Assessment Manager, will preside at the meeting until such time as the meeting appoints an Acting Presiding Member.

4. ASSESSMENT OF DEVELOPMENT APPLICATIONS

4.1 The Presiding Member may in his or her discretion exclude:

4.1.1 a representation or response to representation(s) which is received out of time;

4.1.2 a representation in relation to Performance Assessed application from a person who was not entitled to be given notice of the application; or

4.1.3 a representation or response to representation(s) which is otherwise invalid.

4.2 The Presiding Member may in his or her discretion accept and allow to be considered by the MNRAP any new or additional material submitted by a representor or applicant. The MNRAP may defer consideration of the application to enable full and proper assessment of the further information.

4.3 Any material to be considered by the MNRAP pursuant to clause 4.2 must be provided to the applicant and/or representor(s) (as the case may be) in a manner directed by the Presiding Member and those parties be provided with an opportunity to respond, either in writing or verbally, at the discretion of the Presiding Member.

4.4 In relation to each application it considers, the MNRAP must:

4.4.1 determine whether the proposal is seriously at variance with the Development Plan or the Planning and Design Code (as relevant) and provide reasons for its determination; and

4.4.2 provide reasons for granting or refusing Development Plan or Planning Consent (as relevant) and for the imposition of any conditions.

4.5 If the MNRAP determines that a proposal is seriously at variance with the Development Plan or the Planning and Design Code (as relevant), it must refuse Development Plan or Planning Consent (as relevant) to the application.

4.6 In relation to each application to be considered and determined by the MNRAP:

4.6.1 a person who has lodged a representation in relation to a Performance Assessed application under the *Planning, Development and Infrastructure Act 2016* or an application for which notice must be given under the Act, which has not been excluded pursuant to clause 4.1 and who has indicated that they wish to be heard on their representation may, at the discretion of the Presiding Member, appear before the MNRAP and be heard in support of their representation, in person or by an agent;

4.6.2 where one or more representors are heard by the MNRAP, the applicant is entitled to appear before the MNRAP to respond to any relevant matter raised by a representor, in person or by an agent;

4.6.3 where no representors appear at the meeting, the Presiding Member may, in his or her discretion, allow an applicant to be heard in support of his or her application, in person or by an agent;

4.6.4 representors and applicants will be allowed up to five minutes each to address the MNRAP. The Presiding Member may allow a party additional time at his or her discretion;

4.6.5 MNRAP members may question and seek clarification from a representor or applicant who has addressed the MNRAP at the conclusion of their address; and

4.6.6 following addresses from representors and the applicant, the Presiding Member will invite all Members to speak on any matter relevant to the application.

5. DECISION MAKING

5.1 Each Member present at a meeting of the MNRAP, is entitled to one vote on any matter arising for decision. If the votes are equal, the Presiding Member is entitled to a second or casting vote. Additional Members appointed to the MNRAP to provide expert advice and assistance are not entitled to vote.

5.2 Matters arising for decision at a meeting of the MNRAP will be decided by a majority of the votes cast by Members present at the meeting and entitled to vote.

5.3 Members of the Panel cannot call for a division on a motion, nor can they submit any notices of motion to revoke or amend previous decisions of the Panel.

5.4 The Presiding Member may adjourn a meeting in the event of a disruption or disturbance by any person (including a MNRAP Member, applicant, representor or other member of the public) to a specified date and time.

5.5 The Presiding Member may ask a member of the public (including an applicant, representor or other member of the public) to leave a meeting where he or she is, in the opinion of the Presiding Member:

5.5.1 behaving in a disorderly manner; or

5.5.2 causing an interruption or disruption to the meeting.

5.6 Meetings may be held in camera to discuss confidential information in accordance with Regulation 13 of the *Planning, Development and Infrastructure (General) Regulations 2017* (“PDI Regulations”).

5.7 The Panel may resolve to exclude the public from attendance in accordance with Regulation 13 of the PDI Regulations.

6. MINUTES AND REPORTING

6.1 The MNRAP must ensure that accurate minutes are kept of all meetings.

6.2 The Assessment Manager, or a person nominated by the Assessment Manager, will take minutes of all meetings.

6.3 The minutes will record:

6.3.1 the names of all Members present;

6.3.2 the names of all Members from whom apologies have been received;

6.3.3 the name and time that a Member enters or leaves the meeting;

6.3.4 the name of every person who makes or responds to a representation in relation to a development application;

6.3.5 the name of every person who appears in relation to an application for review of an Assessment Manager decision (including the Assessment Manager or delegate);

6.3.6 in relation to each development application:

6.3.6.1 the determination of the MNRAP as to whether the proposal is seriously at variance with the Planning and Design Code or Development Plan; and

6.3.6.2 the reasons for granting or refusing Development Plan consent or Planning consent (as relevant) and for the imposition of any conditions; and

6.3.7 in relation to each application for review of an Assessment Manager decision:

6.3.7.1 the determination of the MNRAP as to whether the proposal is seriously at variance with the Development Plan or Planning and Design Code (as relevant); and

6.3.7.2 the reasons for the MNRAP's decision under Section 203(4) of the Act, including the reasons for the imposition of any new or varied conditions; and

6.3.8 where a decision is by majority vote, the decision and its mover and seconder, but not each Members' vote;

6.3.9 if an application is not determined by the MNRAP, the deferral of the application and the reasons for the deferral;

6.3.10 a decision to exclude the public from attendance pursuant to the Regulations;

6.3.11 any disclosure of a direct or indirect pecuniary interest in any aspect of a development or anybody associated with any aspect of a development made by a Member in accordance with Section 84(1)(g) of the Act, and the nature of the interest;

6.3.12 any disclosure of a conflict of interest made by a Member pursuant to the Code of Conduct adopted by the Minister under Clause 1(1)(c) of Schedule 3 of the Act (**Code of Conduct**), and the nature of the interest; and

6.3.13 if a meeting is adjourned by the Presiding Member, the reason for the adjournment and the date and time to which the meeting is adjourned.

6.4 All minutes must be confirmed by the Assessment Manager in conjunction with the Presiding Member as being accurate prior to, or at the commencement of, the following MNRAP meeting.

6.5 The minutes of the meeting will be made available to the public five days after the meeting.

7. ADDITIONAL PROCEDURES

7.1 Insofar as any procedure to be followed by the MNRAP is not prescribed by the Act and Regulations (and, during the transition to the Act and Regulations, the Development Act and *Development Regulations 2008*), the MNRAP's Terms of Reference, the Code of Conduct or, the Assessment Manager Review Policy, these Meeting Procedures - the MNRAP may by resolution determine the procedure for itself. Any such determination may be added to these Meeting Procedures.

7.2 The MNRAP may call for and consider such professional assistance from the Assessment Manager and, in consultation with the Assessment Manager, other professional advisors as it deems necessary and appropriate from time to time.

8. TEMPORARY ADDENDUM TO FACILITATE ELECTRONIC MEETINGS

On 9 April 2020, the *COVID-19 Emergency Response Act 2020* (**COVID Act**) commenced operation. The COVID Act will expire on the earlier date of 9 October 2020 or the day on which all relevant declarations relating to the outbreak of COVID-19 within South Australia have ceased (**Expiry Day**).

Section 17 of the COVID Act provides (relevantly) that despite a provision of any other act, a requirement that a meeting occur that requires 2 or more persons to be physically present will be taken to be satisfied if the persons meet remotely using audio-visual or audio only communication.

In reliance on Section 17 of the COVID Act, on 5 August 2020, the MNRAP adopts the following temporary amendments to the ordinary meeting procedures numbered 1 to 6 above (**Ordinary Meeting Procedures**). These amendments will operate until the Expiry Day of the COVID Act.

9. DEFINITIONS

The following definitions apply in relation to these temporary amendments:

9.1 *connect* means able to hear and/or see the meeting by electronic means, including via a live stream.

9.2 *disconnect* means to remove the connection so as to be unable to hear and see the meeting.

9.3 *electronic means* includes a telephone, computer or other electronic device used for communication.

9.4 *live stream* means the transmission of audio and/or video from a meeting at the time the meeting is occurring.

10. AMENDMENTS TO CLAUSE 1

9.1 Sub-clause 1.4 of the Ordinary Meeting Procedures is supplemented with the inclusion of the following additional paragraphs:

1.4.6 where attendance at the meeting is able to occur by electronic means (in whole or in part), include details of how to connect to the meeting; and

1.4.7 where the meeting is to be live streamed for viewing by members of the public, include details of how to access and/or connect to the live stream.

9.2 Sub-clause 1.6 of the Ordinary Meeting Procedures is amended with the deletion of the words "*and at the Council's offices*".

11. ADDITIONAL CLAUSE 3A

A new clause 3A is inserted into the Ordinary Meeting Procedures as follows:

3A.1 One or more Panel members may attend a meeting via electronic means.

3A.2 A Member attending a meeting by electronic means is taken to be present at the meeting provided that the Member:

3A.2.1 can hear and, where possible, see all other Members who are present at the meeting;

3A.2.2 can hear and, where possible, see, all representors (or their representatives) and applicants (or their representatives) who speak at the meeting;

3A.2.3 can be heard and, where possible, seen by all other Members present at the meeting; and

3A.2.4 can be heard and, where possible, seen by the person recording the minutes of the meeting.

3A.3 Where a meeting occurs via electronic means, it shall (to the extent that the public is not able to physically attend the meeting) be live streamed.

3A.4 Where a meeting is being live streamed, the live stream shall be disconnected only during those parts of the meeting during which the public has been excluded from attendance pursuant to Regulation 13(2) of the Regulations.

3A.5 Where the public has been excluded from attendance pursuant to Regulation 13(2) of the Regulations, the Assessment Manager or a person nominated by the Assessment Manager shall ensure that all parties except for MNRAP members disconnect from or are disconnected from the meeting.

12. **AMENDMENTS TO CLAUSE 4**

12.1 Sub-clause 4.6 of the Ordinary Meeting Procedures is supplemented with the inclusion of the following additional paragraph:

4.6.7 Clauses 4.6.1 to 4.6.4 are satisfied if a representor or applicant (as the case may be) appears via electronic means. The Presiding Member may require that any such appearance be via electronic means.

12.2 Sub-clause 4.11 of the Ordinary Meeting Procedures is amended with the inclusion of the words "*or disconnect from*" after the word "*leave*". As amended, sub-clause 4.11 is as follows:

4.11 The Presiding Member may ask a member of the public (including an applicant, representor or other member of the public) to leave or disconnect from a meeting where he or she is, in the opinion of the Presiding Member: ...'

13. **AMENDMENTS TO CLAUSE 5**

Sub-clause 5.3 of the Ordinary Meeting Procedures is supplemented with the inclusion of the following additional paragraph:

5.3.4A methods of attendance by all Members present and by every person who makes or responds to a representation.